

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

LOUIS B. CREAGER,  
Petitioner,

Case No. 1:05-cv-394

vs

Beckwith, J.  
Hogan, M.J.

ROB JEFFREYS, WARDEN,

**REPORT AND  
RECOMMENDATION**

Respondent

This habeas corpus action brought pro se pursuant to 28 U.S.C. § 2254 is before the Court on petitioner's motion "to dismiss and bar respondent from proceedings and enter a summary judgment in favor of the Petitioner" (Doc. 9), and motion "to grant petitioner's motion to dismiss and bar respondent." (Doc. 11).

Petitioner's motions should be denied. Habeas corpus petitions are generally decided on the record, without an evidentiary hearing, in chronological order from the oldest to most recently filed. Because petitioner's motions to dismiss, to bar respondent, and for summary judgment require the same record-based review of the merits of the petitioner's grounds for relief, they should be considered at the time the case is ripe for disposition based upon the order in which the petition was filed. Petitioner has not provided any justification for taking his case out of chronological order for consideration of the merits of his particular claims at this time.

The Court notes, however, that denial of his motions at this time will not preclude the Court from considering the arguments asserted by petitioner in support of his motions to dismiss, to bar respondent, and for summary judgment upon final adjudication of the merits of his claims for relief.

It is therefore **RECOMMENDED** that the motions be **DENIED**.

Date: 1/26/2006

KI

s/Timothy S. Hogan

Timothy S. Hogan  
United States Magistrate Judge

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**NOTICE**

Attached hereto is a Report and Recommendation issued by the Honorable Timothy S. Hogan, United States Magistrate Judge, in the above-entitled habeas corpus action. Pursuant to Fed. R. Civ. P. 72(b), which may be applied in this action under Rules 1 and 11 of the Rules Governing Section 2254 Cases in the United States District Courts, 28 U.S.C. foll. § 2254, any party may object to the Magistrate Judge's Report and Recommendation within fifteen (15) days after being served with a copy thereof. Such party shall file with the Clerk of Court and serve on all other parties written objections to the Report and Recommendation, specifically identifying the portion(s) of the proposed findings, recommendations, or report objected to, together with a memorandum of law setting forth the basis for such objection(s). Any response by an opposing party to the written objections shall be filed within ten (10) days after the opposing party has been served with the objections. *See* Fed. R. Civ. P. 72(b). A party's failure to make objections in accordance with the procedure outlined above may result in a forfeiture of his rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

1:05cv394

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